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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,491	01/28/2002	Gerhard Blessing	3201-216 (D4700-00227)	2282
8933	7590	07/02/2004	EXAMINER	HWU, DAVIS D
DUANE MORRIS, LLP IP DEPARTMENT ONE LIBERTY PLACE PHILADELPHIA, PA 19103-7396			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/058,491	BLESSING ET AL.	
<b>Examiner</b>	<b>Art Unit</b>		
Davis Hwu	3752		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 May 2004.

2a)  This action is **FINAL**.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 11 is/are allowed.

6)  Claim(s) 1-10 and 12-14 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

***Response to Amendment***

1. Applicant's amendment and remarks of May 24, 2004 is acknowledged and entered.
2. Applicant's amendment and remarks have been fully considered.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

4. Claims 1-8 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haverstraw et al.

The patent to Haverstraw et al. discloses a shower head having a housing, a jet disk terminating the housing (see Figure 5), at least two groups of jet outlets, whereof one group comprising nozzles 128 delivers an aerated jet, whereas a second group of jet outlets can be switched in by a switching device. Although Haverstraw et al. do not disclose the aerated jet being delivered continuously, it would be obvious to one having ordinary skill in art that the device of Haverstraw et al. can be switched to deliver the aerated jet continuously since the output modes can be selected to spray combinations of the various spray modes (Column 14, lines 18-22), wherein both groups of jet outlets are connected to in each case one chamber 156 and 198 in the housing and the switching device opens or closes the water inlet into the chamber associated with the jet outlets as recited in claims 2 and 3. Aeration takes place within the housing and air is sucked through an opening 130 in the jet discharge disk (see Figure 5) and a tubular projection extends into the chamber 156 from the opening in the jet discharge disk as

recited in claims 4-6. Regarding claim 7, it has been held that mere placement of the essential working parts of a device involves only routing skill in the art. Placing markings as recited in claim 14, would have been an obvious matter of design choice depending on user preferences.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haverstraw et al. in view of Ridenour.

The patent to Haverstraw et al. discloses the instant invention except for the switching device being automatically reset. The patent to Ridenour discloses that the prior art teaches nozzles comprising timers to produce a desired spray mode for a period of time. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Haverstraw et al. by replacing the switching device of Haverstraw et al. with a switching device comprising a timer as taught by Rindnour to spray in a certain mode for a desired period of time.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haverstraw et al. in view of Joubran.

The patent to Haverstraw et al. discloses the instant invention except for the seal as recited. The patent to Joubran teaches a shower head comprising seals 111 within the housing to prevent leakages. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Haverstraw et al. by adding a seal as recited in order to prevent leaks as taught by Joubran.

***Allowable Subject Matter***

7. Claim 11 is allowed

***Response to Arguments***

8. Applicant's remarks filed May 24, 2004 have been fully considered but they are not persuasive. The Haverstraw et al. shows a shower head comprising an incoming flow path 74 which is split into flow paths 76 and 78 by a control valve 82. Flow path 76 is further split into several spray modes through mode selector 80 including an aerated spray mode and flow path 78 feeds the mist spray mode. It would have been obvious to one having ordinary skill in the art at the time the invention was made to that a user can select to send water to path 76 and then set mode selector 80 to the aerating mode and leave the aerating mode to run continuously. The user also has the capability to send water into flow path 78 through valve 82 while the aeration mode is still active since valve 82 can divert water from flow path 74 to either or both of the flow paths 76 and 78. Thus, one having ordinary skill in the art would recognize that the device of Haverstraw et al. comprises the structural limitations of the instant invention and is fully capable of carrying out the function as recited.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3752

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663.

The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Davis Hwu